

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

GEORGE ANIBOWEI,

Plaintiff,

v.

KIRSTJEN M. NIELSEN, U.S. Secretary of Homeland Security, in her official capacity; KEVIN K. MCALEENAN, Commissioner of U.S. Customs and Border Protection, in his official capacity; RONALD D. VITIELLO, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; DAVID P. PEKOSKE, Administrator of the Transportation Security Administration, in his official capacity; WILLIAM P. BARR, Attorney General of the United States, in his official capacity; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. CUSTOMS AND BORDER PROTECTION; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TRANSPORTATION SECURITY ADMINISTRATION,

Defendants.

Case No. 3:16-cv-03495-D

**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT,
OR, IN THE ALTERNATIVE, A PRELIMINARY INJUNCTION**

Plaintiff George Anibowei, by his undersigned counsel, respectfully moves this Court for summary judgment on Counts I through VI of the Verified Second Amended Complaint ("SAC") or, in the alternative, for a preliminary injunction.

For the reasons stated in the accompanying Memorandum in Support, the Defendants are violating the First and Fourth Amendments to the U.S. Constitution by searching and seizing individuals' electronic devices, communications, and data absent a warrant supported by probable cause, and indeed without any individualized suspicion of wrongdoing. Defendants' policies and practices purport to authorize these unconstitutional searches and seizures. The

Court should therefore grant partial summary judgment in favor of Plaintiff on Counts I-VI of the SAC and should:

1. Declare that Defendants' policies and practices violate the First and Fourth Amendments by authorizing searches of travelers' electronic devices and communications absent a warrant supported by probable cause that the devices contain contraband or evidence of a violation of criminal, immigration, or customs laws, and without particularly describing the information to be searched;
2. Enjoin Defendants to expunge all information gathered from, or copies made of, the contents of Plaintiff's electronic devices, and to certify the expungement by notice to the Court;
3. Vacate and enjoin enforcement of the Agency Policies; and
4. Award Plaintiff reasonable attorneys' fees, costs, and any other relief the Court deems proper.

If this Court does not grant partial summary judgment for Plaintiff, it should, for the reasons stated in the accompanying Memorandum, grant a preliminary injunction to

1. Enjoin Defendants to expunge all information gathered from, or copies made of, the contents of Plaintiff's electronic devices, and to certify the expungement by notice to the Court; and
2. Enjoin Defendants from enforcing the Agency Policies against Plaintiff George Anibowei.

Plaintiff is likely to succeed on the merits of his claims and will suffer irreparable harm in the absence of the requested preliminary relief. The balance of equities tilts strongly in his favor,

and an injunction protecting his constitutional rights accords with the public interest. A preliminary injunction should therefore issue.

The reasons supporting the requested relief are set forth in the accompanying Memorandum, and the requested relief is described in the accompanying Proposed Orders.

Dated: April 16, 2019

Respectfully submitted,

**ARNOLD & PORTER
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By: /s/ Andrew Tutt

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the date of electronic filing.

/s/ Andrew Tutt

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